

REMARKS

Claims 1, 10, 14, 17, 19 and 23 are amended, Claims 5-7, 15, 16 and 24 are cancelled and Claims 25-32 are added. Claims 1-4, 8-14, 17-23 and 25-32, as amended, remain in the application. No new matter is added by the amendments to the claims.

The Rejections:

In the Office Action dated July 10, 2007, the Examiner rejected Claim 23 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, it is not clear as to how one skilled in the art would make and/or use the invention with at least one pin extending through apertures formed in the rail base of the guide rail and the substrate, as recited in instant Claim 23.

The Examiner rejected Claim 23 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner stated that the wordings of Claim 23 appear to be incorrect and inconsistent with the invention described in the instant specification. Specifically, rail base 11 of the present invention does not have an aperture for receiving the pin of the support means.

The Examiner rejected Claims 1-6, 14-15, 21-22 and 24 under 35 U.S.C. 102(b) as being anticipated by Meier (US 5,346,131). The Examiner stated that Meier discloses a floating mount device having all the features as recited in the instant claims, including support means or fixing device 6 secured by fasteners substrate U; a first movable part, which is the left portion of element 3, supported by flexible elements 9a,9b, and a first stop which is the corresponding surface of element 6 that would be in contact with tooth 4 and the left edge of part 3 upon sufficient load being applied on guide rail 1; and a second movable part, which is the right portion of element 3, supported by flexible element 9d, and a second stop which is the corresponding surface of element 6 that would be in contact with the right side surface of the element 3 upon sufficient lateral load being applied in the direction toward the external side of the railroad track.

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Regarding the instant method claims, note that the mounting operation of the structure of Meier inherently requires the method steps as claimed.

The Examiner rejected Claims 8-10 under 35 U.S.C. 103(a) as being unpatentable over Meier as applied above. The Examiner stated that regarding the instant claimed step of forming the flexible element with a side support retaining at least one flexible sleeve element, as recited in instant claim 8, consider side support 3a of Meier, which includes claws that hold down rail base 1a, upwardly extending bolts, associated threaded nuts, and a compressed coil member between the threaded nuts and the claws. It is noted that Meier does not specific describe that the coil members are in the form of coil springs or a flexible members. However, it would have been obvious to one skilled in the' art to provide said coil members of Meier as flexible members or coil springs for preventing loosening of the associated threaded nuts 3 because such practice is well known in the art of fasteners (Official Notice is taken). Note that said flexible coil members of Meier are readable as flexible sleeve element as claimed.

The Examiner rejected Claims 11-13 under 35 U.S.C. 103(a) as being unpatentable over Meier in view of Karol (US 4,431,087). The Examiner stated that regarding the instant claimed flexible disc element, as recited in instant claims 11 and 12, consider flexible disc element 56 of Karol which is a well known alternative means for preventing loosening of the associated threaded nuts. In view of Karol, it would have been obvious to one skilled in the art to replace the coil elements associated with the threaded nuts on fasteners 3a of Meier with lock washers or flexible discs, similar to that taught by Karol, for performing the same expected function of preventing loosening of the associated threaded nuts.

The Examiner rejected Claims 14 and 19-20 under 35 U.S.C. 103(a) as being unpatentable over Hewitt (US 1,836,713) in view of European reference EP 0 448 839 A1. The Examiner stated that Hewitt discloses a device similar to that recited in the instant claims, including support means 9, movable part 14, flexible elements 15 and stops13. It is noted that the flexible elements 15 of Hewitt are not in the form of flexible discs as claimed. However, note that springs in the form of flexible discs are well known. Note for example flexible discs 4 and 5 of the European reference. Therefore, it would have been obvious to one skilled in the art to alternatively substitute flexible discs, similar to that of the European reference, for the coil

springs used in Hewitt for performing the same expected function and achieving the expected advantages thereof.

The Response:

The Examiner stated that in Claim 1, line 7, "the guide rail section" lacks antecedent basis and in Claim 10, line 2, "the side supports" lacks antecedent basis. Applicant amended Claims 1 and 10 accordingly.

Applicant amended Claim 23 to overcome the rejections under 35 U.S.C. 112, first and second paragraphs. The pin 60 extends through an aperture formed in the base support 2 as shown in Fig. 1.

The Examiner stated that Claims 7 and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant amended Claim 1 to include the subject matter of cancelled Claims 5-7. Applicant amended Claim 14 to include the subject matter of Cancelled Claims 15 and 16. Applicant added Claim 25 that corresponds to Claim 17 written in independent form. New Claims 26-32 correspond to original Claims 18, 15 and 19-23 respectively.

In view of the amendments to the claims, Applicant believes that the claims of record now define patentable subject matter over the art of record. Accordingly, an early Notice of Allowance is respectfully requested.